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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/579,457

10/24/2007

Ernst Bock

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EXAMINER

SCHWARTZ, CHRISTOPHER P

ART UNIT

PAPER NUMBER

3657

MAIL DATE

DELIVERY MODE

12/17/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/579,457	<b>Applicant(s)</b> BOCK ET AL.	
	<b>Examiner</b> Christopher P. Schwartz	<b>Art Unit</b> 3657	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statements have been received and considered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 5,10-13,19-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 5 last line “and/or” is indefinite. Which is it?

Regarding claims 10 and 13 last line what are the metes and bounds of “or the like”?

Regarding claim 19 line 2 “and/or” is indefinite.

Claim 21 “preferably pentagonally or hexagonal” is a range within a range and becomes confusing since it is unclear whether applicants are relying upon the broader range of “polygonally” for patentability or the narrower range of pentagonally or hexagonal.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 5-9 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over DE 202004010143.

Regarding claims 5-9 DE '143 shows a spring similar in structure to that of applicant's and that may be formed from a plastics material. It appears this spring may be formed using the well known process of injection molding.

One having ordinary skill in the art at the time of the invention would have found it obvious to have used this well known process simply for increased design flexibility, lower labor costs, and minimal scrap losses.

6. Claims 14-18 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 202004010143.

Regarding claims 14-18 DE '143 shows substantially the same spring as that of applicant's as readily apparent from the drawings.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 20317840 in view of WO 2004086915.

Regarding claims 1 DE '840 shows a spring similar in structure to that of applicant's in the several embodiments as readily apparent from the drawings.

Lacking is a specific indication the spring may be formed from a plastics material and the coupling unit that connects the pad spring elements to one another.

WO '915 shows a spring similar to that of the DE '840 publication that can be formed from a plastics material as indicated in the abstract.

One having ordinary skill in the art at the time of the invention would have found it obvious to have made the spring of DE '840 from a plastics material and to have connected the individual springs together with a coupling unit to save on weight, noise reduction, and reduced manufacturing costs.

9. Claims 5-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 20317840 in view of WO 2004086915 and DE 202004010143.

Regarding claims 5,6 DE '840 lacks a showing of the spring being formed of a plastics material and using two spiral or helical shaped strip elements.

The reference to DE '143 shows a spring substantially structurally similar to that of DE '840 and shows two of these elements at 4.

The reference to WO '915 shows also shows a similar spring to those above and that the spring may be formed from a plastics material.

One having ordinary skill in the art would have found it obvious to have modified the spring of DE '840 with the teachings above simply to adapt the spring to similar applications.

Also, it is notoriously well known in the art that such springs may be manufactured using the process of injection molding.

Art Unit: 3657

10. Claims 10-13, 19-21 rejected under 35 U.S.C. 103(a) as being unpatentable over DE 202004010143 in view of WO 2004086915 or WO '0150923

Regarding claims 10-13, 19-21 DE '840, as modified, lacks showing using the spring in a mattress or pad application.

The references to WO '915 or WO '923 both show it is known to use structurally similar springs to that of DE '840 in these types of applications

One having ordinary skill in the art at the time of the invention would have found it obvious to have used the springs of DE '143 in a seat or mattress application, as taught by either WO '915 or WO '923, simply as the substitution of one similar spring for another dependent upon the spring characteristics desired.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Review the references to Ogle and to Gladney.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher P. Schwartz whose telephone number is 571-272-7123. The examiner can normally be reached on M-F 10:30-7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rob Siconolfi can be reached on 571-272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3657

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher P. Schwartz/  
Primary Examiner, Art Unit 3657

12/13/10